



Report

Date : 19 April 2024
To : Mayor and Councillors
Tararua District Council
From : James Single
Regulatory Services Manager
Subject : **Draft Dangerous, Affected and Insanitary Buildings Policy 2024**
Item No : **11.2**

1. Recommendation

- 1.1 *That the report from the Regulatory Services Manager dated 17 April 2024 concerning the Tararua District Council's Draft Dangerous, Affected and Insanitary Buildings Policy 2024 be received.*
- 1.2 *That the Council approves the Statement of Proposal and the Tararua District Council's Draft Dangerous, Affected and Insanitary Buildings Policy 2024, for public consultation in accordance with s83 of the Local Government Act 2002 and s132 of the Building Act 2004.*
- 1.3 *That the Council agrees that the Chief Executive be delegated the power to approve any minor amendments to the draft policy or statement of proposal that he considers appropriate, prior to consultation starting.*

Executive Summary

This report seeks approval to publicly notify the draft Tararua District Council Dangerous, Affected and Insanitary Buildings Policy 2024.

Section 131 of the Building Act 2004 (BA) requires every territorial authority to adopt a policy on dangerous, affected and insanitary buildings within its district. The policy must be reviewed every 5 years.

Tararua District Council's current Dangerous and Insanitary Building Policy was adopted in 2017 and is now overdue for review. The policy does not cease to have effect because it is due for review or being reviewed.

All new policies must now consider affected buildings, as required under section 132A.

An affected building for the purposes of the Act is any building adjacent to, or nearby a dangerous building as defined in s121 or a dangerous dam within the meaning of s153.

2. Reason for the Report

- 2.1 This report relates to the review and replacement of the Tararua District Council Dangerous and Insanitary Buildings Policy 2017.
- 2.2 This report also includes the statement of proposal and draft Dangerous, Affected and Insanitary Buildings Policy 2024, for public feedback.

3. Background

- 3.1 Tararua District Council's Dangerous and Insanitary Buildings Policy expired in August 2022. The Policy must be reviewed every 5 years as required by s131 BA.
- 3.2 The policy does not cease to have effect because it is due for review or being reviewed.
- 3.3 Council proposes to review and renew the policy. The statement of proposal and draft Dangerous, Affected and Insanitary Buildings Policy 2024 are attached as annexes A and B, to this report.
- 3.4 The draft policy largely continues with some amendments and improvements and now includes affected buildings as required under s132A. The key changes to the policy are described in clause 6 of this report.

4. Significance Assessment

- 4.1 The immediate decision before the Council, about whether to commence consultation on the draft policy, is not itself a significant decision. However, the decisions that will follow such consultation (such as whether to adopt the new policy) will be significant under the Council's Significance and Engagement Policy.
- 4.2 Section 132 of the BA requires Council to use the special consultative procedure when making or amending the policy.

5. Consultation

- 5.1 Consultation is required by s132 of the BA and section 83 of Local Government Act 2002 (LGA), the Significance and Engagement Policy is automatically triggered.
- 5.2 The level of engagement recommended for this issue is: Consult (using the special consultative procedure as required by s132 of the BA).

5.3 Council will fulfil the requirements of s82 and 83 of the LGA by doing the following:

- Publishing a public notice relating to consultation on the draft policy, including information on where to access the statement of proposal and how to provide feedback;
- Make copies of the draft policy, the statement of proposal and submission forms available on Council’s website for the duration of the consultation period;
- Provide those interested with an opportunity to present their views to the Council in person at a Hearing.

6. Key Changes to the Draft Policy

6.1 The changes Council proposes to make to the 2017 Dangerous and Insanitary Buildings Policy 2017 are minor in nature and do not significantly alter the operation or effect of the policy. In summary, Council is proposed changes to the policy which, for the most part, reflect changes in legislation (including the requirement in section 132A of the Act for the policy to include references to affected buildings) and to improve clarity.

The proposed changes are:

- Adding the definition of affected building, as defined in the Act (and adding reference to affected buildings throughout the policy);
- Removing reference to “part 3(3) of Schedule 1AA of the Building (Earthquake-prone Buildings) Amendment Act 2016” as no longer required;
- Adding, at part 3, that Council will “Respond to and investigate any notification from Horizons Regional Council of a dangerous dam located within the Tararua District that may trigger affected buildings under the Act”;
- Clarifying that when Council is assessing a potential insanitary building, Council may also consider:
 - Any information available from the Medical Officer of Health within the local office of the National Public Health Service to assess whether the occupants may be neglected or infirm
 - the use to which the building is put and whether the insanitary conditions are offensive or likely to be injurious to the health of any occupants
- Adding the following statement to reflect standard practice:

If Council is satisfied that a building is either dangerous, affected or insanitary Council will endeavour to consult with the owners and occupiers of the building to determine the circumstances and decide the appropriate course of action. Such consultation may not always be possible, particularly in situations involving immediate danger.

- Making clear that owners of buildings will receive not less than 10 days' written notice of an application to the District Court under s 126 of the Act;
- Adding that immediate action to remediate immediate danger or insanitary conditions could include the demolition of all or part of a building;
- Amending the name of 'Heritage New Zealand' to 'Heritage New Zealand – Puhere Taonga';
- Adding a list of related legislation and providing an explanatory note regarding powers available to the Council under the Health Act 1956.

7. Conclusion

- 7.1 This report relates to the review and replacement of Council's Dangerous and Insanitary Buildings Policy 2017. The policy was due to be reviewed in August 2022. Council must review the policy every 5 years as required under s131 of the BA.
- 7.2 The draft policy has some amendments and now also includes affected buildings as required under s132A.
- 7.3 The recommendation at clause 1.7 of this report gives the Chief Executive the authority to approve any minor amendments to the draft bylaws or statements of proposal prior to consultation commencing.
- 7.4 The proposed consultation period is from Wednesday 1 May until Monday 3 June 2024.

Attachments

1. Draft Dangerous, Affected and Insanitary Buildings Policy 2024
2. Statement of Proposal